

Applicant: Juan Salmon

Agent: N/A

Location: 3029 Owen SW

Property Size: .15 acres

Existing Zone: R-1

Proposed Zoning/SUP: Special Use Permit for Truck Storage (parking mobile vending/catering truck)

Recommendation: Approval



Summary: The applicant is seeking a Special Use Permit for a Specific Use for Catering Truck Storage. According to the submitted application the applicant previously owned and operated a butcher shop in the South Valley. The market is now closed and the applicant wishes to continue to operate a catering business. The applicant seeks approval of a Special Use Permit in order to allow him to park the catering vehicle at his residence within a screened area and to operate the catering business off site.

Staff Planner: Enrico Gradi, Program Planner

Attachments:

1. Application
2. Land Use and Zoning Maps
3. Site Plan

Bernalillo County Departments and other interested agencies reviewed this application from 2-28-06 to 3-13-06.

Agency comments were used in preparation of this report, which begins on page 17.

**County Planning Commission
April 5, 2006**

CSU-60009 Juan Salmon requests approval of a Special Use Permit for a Specific Use for Truck Storage (parking mobile vending/catering truck) on Lot 8, Charles Payne Addition, located at 3029 Owen Road SW, zoned R-1, containing approximately .15 acres. (N-10)

AREA CHARACTERISTICS AND ZONING HISTORY

Surrounding Zoning & Land Uses

	Zoning	Land Use
Site	R-1	Single Family Dwelling
North	R-1	Single Family Dwelling
South	R-1	Single Family Dwellings
East	R-1	Single Family Dwelling
West	R-1	Single Family Dwelling

BACKGROUND:

The Request

The applicant is seeking a Special Use Permit for a Specific Use for Catering Truck Storage. According to the submitted application the applicant previously owned and operated a butcher shop in the South Valley. The market is now closed and the applicant wishes to continue to operate a catering business. The applicant seeks approval of a Special Use Permit in order to allow him to parking the catering vehicle at his residence.

The catering activities are to be performed off site and the applicant does not intend to post any type of signage for advertising in the neighborhood nor have any employees. The application states that the applicant has sought neighborhood support and has submitted a petition of neighborhood support (Attachment 1), which includes seven signatures from residents in the immediate vicinity.

Request Justification

The applicant maintains that the request is justified according to Resolution 116-86 in that the Special Use Permit is more beneficial to the community in that the Southwest Area Plan and the Albuquerque/Bernalillo County Comprehensive Plan allows for employment and services to complement residential areas and minimize the negative impacts to the neighborhood. Additionally, the applicant maintains that the parking of the catering coach at the residence will have a very low environmental impact because the truck does not generate noise or toxic fumes and the action will be consistent with the health, safety and general welfare of the residents of Bernalillo County.

The applicant also maintains that the request will not destabilize the current residential land use and zoning in the area because the truck will be parked out of view of the surrounding neighbors and the appearance of the residence will not be of a commercial nature. The applicant argues that unique conditions exist in that the existing walls that surround the subject shield the catering truck from eyeshot of the surrounding residents.

Surrounding Land Use and Zoning Activity

The surrounding and predominant land use in this area is single-family dwellings on residential lot of approximately 8000 square feet. A fire station is located approximately 300 feet west of the subject site.

APPLICABLE PLANS AND POLICIES:

Albuquerque/Bernalillo County Comprehensive Plan

The site is located in the Developing Urban Area as delineated in the Albuquerque/Bernalillo Comprehensive Plan. The principal Goal for the area of the Comprehensive Plan is to create a quality urban environment which perpetuates the tradition of identifiable, individual but integrated communities within the metropolitan area and which offers variety and maximum choice in housing, transportation, work areas and lifestyles, while creating a visually pleasing built environment.

Policy a states that “The Established and developing Urban Areas shall allow a full range of urban land uses, resulting in an overall gross density of up to five dwelling units per acre.”

Policy d states that “The location, intensity, and design of new development shall respect existing neighborhood values, natural environmental conditions and carrying capacities, scenic resources and resources of other social, cultural, or recreational concern.”

Policy g states “Development shall be carefully designed to conform to topographical features and include trail corridors in the development where appropriate.”

Policy i states that “Employment and service uses shall be located to complement residential areas and shall be sited to minimize adverse effects of noise, lighting, pollution, and traffic on residential environments.”

Policy j states “Where new commercial development occurs, it should generally be located in existing commercially zoned areas as follows:

- In small neighborhood-oriented centers provided with pedestrian and bicycle access within reasonable distance of residential areas for walking or bicycling.
- In larger area wide shopping centers located at intersections of arterial streets and provided with access via mass transit; more that one shopping center should be allowed at an intersection only when transportation problems do not result.

- In free standing retailing and contiguous storefronts along streets in older neighborhoods.

Policy k states that “Land adjacent to arterial streets shall be planned to minimize harmful effects of traffic; livability and safety of established residential neighborhoods shall be protected in transportation operations.”

Policy l “states that Quality and innovation in design shall be encouraged in all new development design shall be encouraged which is appropriate for the plan area.”

Policy m “states that Urban and site design which maintains and enhances unique vistas and improves the quality of the visual environment shall be encouraged.”

Air Quality

The Goal is to improve air quality to safe guard public health and enhance the quality of life.

Policy g states “Pollution from particles shall be minimized.”

- “Use vegetation, landscaping and other erosion control techniques to minimize dust pollution especially from construction sites.”
- Modify the Development process manual to expand requirements for top soil disturbance permits and dust control plans for excavations greater than $\frac{3}{4}$ acre; monitor and strictly enforce the existing regulations regarding airborne particulates.”

Southwest Area Plan (SWAP)

The site is located in Residential Area Five of the Southwest Area Plan.

Policy 26 (g) allows a maximum residential density of nine dwelling units per net acre when city sewer services are available.

Policy 25 states “The County and City stabilize residential zoning and land use in the plan area.”

f. Encourage stabilization of residential land use through subdivision design and scale.

Policy 30 states, “Standards for outdoor lighting shall be implemented to ensure that their use does not interfere with the night sky environment and unnecessarily adjacent properties.”

- Outdoor light poles within residential areas should not exceed sixteen (16) feet in height above existing grade; when mounted on buildings or structures, fixtures should not exceed twelve (12) feet from existing grade.
- Encourage landscaped areas within lots to break up large expanses of paved area and enhance pedestrian access.

Policy 32 states... “Increase the visual character and quality of the streetscape and overall development by encouraging enhanced use of required perimeter walls.”

- Discourage long expanses of uninterrupted wall surface and encourage walls to be indented, offset, or in a serpentine form to avoid a tunnel effect.

Policy 41 states..."Balance economic development and the quality of life for existing communities as well as for newly developed areas."

Policy 45 states..."Emphasize job creation and expansion of employment opportunities for the residents of the Southwest Area Plan."

Bernalillo County Zoning Ordinance

Resolution 116-86 defines criteria for evaluating a Zone Map changes and Special Use Permit applications.

The following policies for deciding zone map changes and Special Use Permit applications pursuant to the adopted BCC Zoning Ordinance.

- A. A proposed land use change must be found to be consistent with the health, safety and general welfare of the residents of the County.
- B. The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a land use change.
- C. A proposed land use change shall not be in significant conflict with adopted elements of the Comprehensive Plan or other Master Plans and amendments thereto including privately developed area plans, which have been adopted by the BCC.
- D. Stability of the land use and zoning is desirable; therefore, the applicant must provide a sound justification for land use change. The burden is on the applicant to show why the change should be made.
- E. The applicant must demonstrate that the existing zoning is inappropriate because:
 - 1. An error in the original zone map.
 - 2. Changed neighborhood conditions, which justifies a change in land use or
 - 3. That a different use category is more advantageous to the community as articulated in the Comprehensive Plan or other land use plans as adopted by the BCC.
- F. A land use change shall not be approved where some of the permissive uses in the land use change would be harmful to adjacent property, the neighborhood or the community.
- G. Location on a collector or major street is not itself sufficient justification of apartment, office, or commercial zoning.
- H. A zone change request, which would give a zone different from the surrounding, zoning to one small area, especially when only one premises is involved, is generally called a "spot zone." Such a change of zone may be approved only when:
 - 1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or
 - 2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.

- I. A zone change request, which would give a zone different from the surrounding zoning to a strip of land along a street, is generally called a “strip zoning.” Such a change of zone may be approved only when:
 1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or
 2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.

Section 18 Special Use Permit Regulations

A. By Special Use Permit after receipt of a recommendation from the County Planning Commission, the Board of County Commissioners may authorize the location of uses in any one in which they are not permitted by other sections of this ordinance; the Board of County Commissioners may likewise authorize the increase in height of buildings beyond the limits set fourth by sections of the zoning ordinance. With such permits, the Board of County Commissioners may impose limitations as it deems necessary:

1. To ensure that the degree of compatibility of property uses which this section is intended to promote and preserve shall be maintained with respect to the special use on the particular site and consideration of existing and potential uses of property within the zone and the general area in which the use is proposed to be located.
2. To ensure the proper performance standards and conditions are, whenever necessary, imposed upon uses which are, or which reasonably may be expected to become, obnoxious, dangerous, offensive or injurious to the health, safety, or welfare of the public, or a portion thereof, by reason of the emission of noise, smoke, dust, fumes, vibration, odor, or other harmful or annoying substances;
3. To preserve the utility, integrity and character of the zone in which the use will be located, without adversely affecting adjacent zones; and
4. To ensure that the use will not be or become detrimental to the public interest, health, safety, convenience, or the general welfare.
5. The County Planning Commission must review the Special Use Permit and progress of development from the date of approval and each year thereafter until completion of the plan, and if needed make a recommendation to the Board of County Commissioners to continue or revoke the Special Use Permit.

B. Such Special Use Permits may authorize the following uses:

32. Specific Use.

- a. (Office/Commercial) In certain situations based on unique conditions the owner may apply for any of the specific uses set forth in Sections 12, 13, 14 or 15 of this Ordinance. The special use for a specific use (office/commercial) may be granted if the owner/applicant proves by clear and convincing evidence that: (1) unique conditions exist that justify the request and (2) there is substantial support from neighborhood residents (or owners of property) within 200 feet of the site for the proposed special use

- C. The Board of County Commissioners must review the Special Use Permit and progress of development from the date of approval and each year thereafter until completion of the plan, and if needed make a recommendation to the Board of County Commissioners to continue or revoke the Special Use Permit Application procedures
1. An application for a Special Use Permit shall be filed with the County Zoning, Building and Planning Department on forms prescribed by the Department and accompanied by all relevant data and information. Incorrect or incomplete information may be cause for denial or deferral and may delay the review and hearing process. It is recommended that the applicant consult with the County Zoning or Planning staff before filing an application to be informed of any requirements of policies relevant to the request.

Section 9. R-1 Single Family Residential Zone

Permissive Uses

- a. Agricultural activity, including truck gardening and nurseries, fur bearing animal farm. The raising farming, livestock grazing, feeding, and the raising of livestock on lots containing three acres or more. On lots of less than three acres, there shall be at least 10,000 square feet of lot area for each cow or horse, and/or at least 4,000 square feet of lot area for each sheep, pig, or goat, provided that any building, pen, or corral where such animal is located is at least 20 feet from any existing dwelling unit. Stands for the display or sale of home-raised agricultural products, including poultry or rabbits raised on the premises.
- b. One single-family dwelling or H.U.D. Zone Code II manufactured home per lot.
- c. Accessory building, structure, or use customarily incidental to the above uses, such building or structure shall be limited to an area of 600 square feet or less.
- d. Noncommercial library, museum, and art gallery.
- e. Recreational vehicle or boat storage in the rear yard when such vehicle or boat is not to be used as accessory living quarters, and is not connected to utilities, other than temporarily to a source of electricity. Recreational vehicle used for dwelling purposes serves only by electricity for lighting purpose, the use of such recreational vehicle shall be limited to a maximum of two weeks in any calendar year.

Section 15. C-2 Community Commercial Zone.

- A. The regulations set forth in this section, or set forth elsewhere in this ordinance, when referred to in this section, are the regulations in the C-2 Community Commercial Zone. The purpose of this zone is to provide for commercial uses and to regulate such uses in such a manner as to provide for appropriate community commercial uses.
- B. Use Regulations. A building or premises shall be used only for the following purposes. All uses customarily incidental to the building and premises shall be maintained on site.

(b) Auto, trailer, and truck rental, service, storage, provided the lot is graded and surfaced as follows:

- 1. Blacktop or equal. Two inches of asphaltic concrete on a prime coat and a four inch compacted subgrade, or a surface of equal or superior performance characteristics.
- 2. Such paving shall be maintained level and serviceable.

Section 19 Landscaping and Buffer Landscaping Regulations:

Where a nonresidential zone which is hereafter developed for a business purpose abuts a conforming residential use, special buffer landscaping is required to minimize noise, lighting and sight impact of the nonresidential activities in the residential area.

A. Landscaping and buffer landscaping will be required in all zones for office, commercial, industrial, and multifamily residential uses; R-1, A-1, A-2 and M-H residential uses are exempt.

1. Sites of one acre or less:

- a. There shall be a landscaped setback along all streets of no less than ten feet.
- b. There shall be a landscaped buffer of six feet between single-family residential uses and office, commercial, industrial, and multifamily residential uses.
- c. Fifteen percent of all paved areas shall be landscaped. The landscaped setback may contribute toward this requirement.

2. Sites one acre and up to five acres. There shall be a landscaped setback along all streets of not less than 15 feet. All other requirements are the same as 1.b and 1.c above.

3. Sites of five acres or more:

- a. There shall be a landscaped setback along all streets of no less than 20 feet.
- b. The landscaped setback shall not be counted toward the landscaping required as a result of paving.
- c. All other requirements [shall be the] same as 1.b. and 1.c. above.

ANALYSIS:

Surrounding Land Use and Zoning

The subject site is located adjacent to R-1 zoning on the north, south, east and west sides of the site.

Plans

Albuquerque/Bernalillo County Comprehensive Plan

This site is located in the Developing Urban Area as designated by the Albuquerque/Bernalillo County Comprehensive Plan.

Land use policy a states that the Developing Urban Areas shall allow a full range of urban land uses, resulting in an overall gross density of up to five dwelling units per acre. Further, Policy d establishes that the location, intensity, and design of new development shall respect existing neighborhood values, natural environmental conditions and carrying capacities, scenic resources and resources of other social, cultural, or recreational concern. The proposed use appears to be of a character, which does not detract from the surrounding area nor impact the area with regard to the intensity of the use.

Comprehensive Plan policy I call for employment and service uses for this area to complement residential areas and be sited to minimize adverse effects of noise, lighting, pollution, and traffic on residential environments. Given these criteria, it appears that the proposed use does not produce additional noise, pollution, traffic or increased light pollution for the surrounding neighborhood.

Southwest Area Plan (SWAP)

SWAP Policy 44 promotes small scale community commercial centers which foster a market place atmosphere; improve profit for small businesses; provide jobs; and circulate dollars within the area economy to enhance a community environment and meet retail, recreational and service needs of South Valley residents. In addition, Policy 41 recommends a balance between economic development and the quality of life for existing communities as well as for newly developed areas. Policy 45 emphasizes job creation and expansion of employment opportunities for the residents of the Southwest Area Plan.

Zoning Ordinance

Section 15 of the zoning code is the C-2 Community Commercial Zone. The purpose of this zone is to provide sites suitable for office, service, and institutional uses. The proposed use is a permissive use in this category. The purpose of this zone is to provide sites suitable for commercial uses and to regulate such uses in such a manner as to provide for appropriate community commercial uses. Permissive uses for the O-1 zone include any permissive use as allowed and as regulated in the R-1 Single-Family Residential Zone and Institution, including library, museum, nursing or rest home, school, day care center, and family day care home.

Section 15. C-2 Community Commercial Zone.

A. The regulations set forth in this section, or set forth elsewhere in this ordinance, when referred to in this section, are the regulations in the C-2 Community Commercial Zone. The purpose of this zone is to provide for commercial uses and to regulate such uses in such a manner as to provide for appropriate community commercial uses. Appropriate uses in the C-2 zone include auto, trailer, and truck rental, service, storage, provided the lot is graded and surfaced with blacktop or equal or two inches of asphaltic concrete on a prime coat and a four inch compacted subgrade, or a surface of equal or superior performance characteristics. The paving must be maintained level and serviceable. The site contains the appropriate surfacing with regard to the C-2 zone.

Section 19 of the Zoning Ordinance, which deals with the landscaping and buffer landscaping regulations, requires that landscaping be required in all zones for industrial commercial and multifamily uses. Currently, the site plan does not contain this requirement because room for additional landscaping does not exist on the site.

Agency Comments

The Bernalillo County Office of Environmental Health (BCOEH) comments state that the applicant is required to prove drinking water source for the property and the catering truck is potable drinking water. The applicant must also provide plans for on-site cold and dry storage for the catering truck.

Analysis Summary

Zoning	
Resolution 116-86	Resolution 116-86 requires that a land use change must clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan. The Albuquerque/Bernalillo County Comprehensive Plan policy i calls for employment and service uses to be located so as to complement residential areas and be sited to minimize adverse effects of noise, lighting, pollution, and traffic on residential environments. The proposed use appears to be of minimal impact to the surrounding community.
Section 18.B.32	Here is substantial neighborhood support and unique conditions existing that the positions of the perimeter walls on the site provide suitable screening for the catering truck.

Plans	
Comprehensive Plan	Policy c states, “mixed use areas should protect residential uses in the area, while offering a variety of local employment opportunities.” The request appears to be consistent with this policy of the Comprehensive Plan.
Area Plan	Policy 41 of the Southwest Area Plan calls for balancing economic development and the quality of life for existing communities as well as for newly developed areas. Given the amount of neighborhood support it appears that this request can integrate with in the existing community.
Other Requirements	
Environmental Health	The applicant must adhere to certain conditions including the provision of plans for on-site cold and dry storage for the kitchen and catering truck as well as sanitization plans for on-site kitchen cooking area in the house. Plans for the Catering Truck kitchen with regard to sanitization, waste water disposal, solid waste disposal and cold and dry storage must also be provided.
Public Works	Bernalillo County Public Works has no adverse comment regarding this request.

Conclusion

Resolution 116-86 establishes policies regarding zone change and Special Use Permit requests. The Resolution states that the applicant must demonstrate that the existing zoning is inappropriate because of an error in the zone map, changed conditions in the neighborhood or community which justifies a change in land use or that a different use category is more advantageous to the community as articulated in the Comprehensive Plan or other land use plans as adopted by the BCC.

Based on Resolution 116-86 it does appear that the proposed request meets the requirement of facilitating revitalization of the Comprehensive Plan and the Southwest Area Plan. This request may be interpreted as consistent with Resolution 116-86 in that this land use is more advantageous to the community in that it encourages a small-scale, locally-owned and operated business that appears to integrate with surrounding residential areas as stated in policy c of the Comprehensive Plan.

Given the appearance of the applicant’s request it appears that this use can proceed as proposed given that the truck storage does not infringe on the surrounding community. The proposed use does not generate additional traffic, noise or require employees to visit the site. Resolution 116-86 requires that unique conditions exist that justify the request and there is substantial support from neighborhood residents (or owners of property) within 200 feet of the site for the proposed special use. The applicant has addressed the unique conditions of the site as the configuration of the surrounding walls around the property, which shield the view of the catering from view. The applicant has submitted a petition of neighborhood support, which contains signatures from residents 200 feet of the subject site.

RECOMMENDATION:

Approval of CSU-60009 based on the following Findings and Conditions.

Findings

1. This is a request for a Special Use Permit for a Specific Use for Truck Storage (parking mobile vending/catering truck) on Lot 8, Charles Payne Addition, located at 3029 Owen Road SW, zoned R-1, containing approximately .15 acres.
2. This request has substantial neighborhood support.
3. The property is within the Developing Urban Area as designated by the Albuquerque/Bernalillo County Comprehensive Plan.
4. This request is consistent with Resolution 116-86 in that the Albuquerque/Bernalillo County Comprehensive Plan in that Policy c states that a mixed use should protect residential uses in the area, while offering a variety of local employment opportunities.
5. This request is consistent with Resolution 116-86 in that Southwest Area Plan policy 41 recommends balancing local business use while protecting the quality of life for existing neighborhoods.
6. This request is consistent with the health, safety, and general welfare of the residents of the County.

Conditions

1. Lighting shall be site specific. Shielded or cutoff fixtures shall be provided so that no fugitive light crosses to adjacent lots.
2. No outdoor speakers or amplified sound systems shall be permitted.
3. The applicant shall comply with all applicable Bernalillo County ordinances and regulations.
4. The Special Use Permit shall be issued for five (5) years.
5. A revised site development plan consistent with the Conditions of approval and shall be submitted for review to the Zoning Administrator within two months after the final Board of County Commissioners approval
6. The foregoing Conditions shall become effective and shall be strictly complied with immediately upon execution or utilization of any portion of the rights and privileges authorized by this Special Use Permit.

BERNALILLO COUNTY DEPARTMENT COMMENTS

Environmental Health:

1. Current EHRF permit #20060128
2. Flat Rate Sewer-#23041125
3. Must prove drinking water source for the property [house].
4. Must prove potable drinking water source for the catering truck.
5. Must provide plans for on-site cold and dry storage; plans for kitchen and sanitization plans for on-site kitchen [cooking area at the house].
6. Plans for Catering Truck kitchen, Sanitization plan, waste water disposal, solid waste disposal; cold and dry storage.

Building Manager:

No Adverse comments

Fire:

No comment received.

Zoning Enforcement Manager:

Based on the above comments there is no adverse comments at this time.

Public Works:

DRAN

1. This special use permit request will not impact existing drainage conditions of the site. No adverse drainage comment.

DRE

Require an access permit. No adverse comments.

Parks & Recreation:

No adverse comment

Sheriff's:

No comment

COMMENTS FROM OTHER AGENCIES

MRGCOG:

No adverse comment

AMAFCA:

No adverse comment

City Planning:

The Development Review Division of the Planning Department has reviewed the cases for April 5, 2006 and has no comment.

MG/ma 3/15/06

City Public Works:

Transportation:

No comment

Utilities:

No comment

Transit:

No comments

City Open Space:

No adverse comment

City Environmental Health:
No comment.

New Mexico State Highway Department:
No comment

NEIGHBORHOOD ASSOCIATIONS:
The South Valley Coalition of Neighborhood Associations
The South Valley Alliance